

THE LEGAL ASSISTANCE OFFICES OF  
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FORT HOOD, TEXAS 76544

CREDIT REPORTS

I. CREDIT REPORTS

If you have ever purchased something on credit or purchased an expensive item, chances are you have a credit report. A credit report is a compilation of information about your personal credit history, which is maintained by a credit bureau and provided to businesses who are interested in your payment habits. Because the information contained in a credit report can have a tremendous impact on your ability to get or maintain credit, obtain a loan, lease an apartment or gain employment, the federal government enacted a law known as the Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. (hereinafter referred to as the FCRA) which was designed to regulate the content and use of your credit report. Recently, the FCRA underwent several significant changes in the form of an amendment known as The Consumer Credit Reporting Reform Act of 1996, 15 U.S.C. Section 1681 a (hereinafter referred to as "The Reform Act"). Most provisions of The Reform Act will become effective on September 30, 1997. The purpose of this information sheet is to advise you of your rights under the FCRA and to discuss the new changes outlined in The Reform Act.

A. Credit Bureaus

1. Credit Bureaus are agencies designed to assemble or evaluate consumer credit information and provide that information to the third parties. Credit Bureaus will credit information to entities such as banks, finance companies, insurance companies, retailers, landlords and employers, who use that information to offer or deny consumers credit. Credit Bureaus receive information about consumer credit from creditors (companies which offer credit, loans, etc. and other entities to whom money is owed, payment habits, whether an account is overdue and whether any action has been taken to collect on the account. Credit reports may also state whether an individual has been sued, arrested or has filed bankruptcy.

B. Obtaining A Copy Of Your Credit Report

1. Under the FCRA, if an individual has been denied credit, insurance or employment due to adverse information contained in his or her credit report, a credit bureau must provide the relevant information to the individual upon request. A credit report must be provided to the consumer *free of charge* if the consumer notifies the credit bureau within **30 days** after receiving the denial notice from a creditor.

2. The Reform Act, however, expands both the time and situations in which a consumer can acquire a free copy of his or her credit report. Effective September 30, 1997, a copy of a credit report must be furnished to a consumer *free of charge* if the

consumer notifies the credit bureau within **60 days** after notice of denial of credit. In addition, The Reform Act provides that a credit report could also be obtained *free of charge* once during any 12-month period if the consumer certifies *in writing* that the consumer: (1) is unemployed and intends to apply for employment within 60 days after the request for a credit report; (2) is a recipient of public welfare assistance; or (3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

3. The Reform Act also specifies that credit bureaus may impose a reasonable charge on a consumer for a copy of his or her credit report that shall not exceed \$8.00 and such fact shall be made known to the consumer before making the disclosure.

### C. Credit Report Disclosures

1. Prior to the enactment of The Reform Act, a credit bureau only had to disclose the nature and substance of the consumer's file, including the sources of the information, but no written report was required. Now, under The Reform Act, a credit bureau must give the consumer, **in writing**, all data in that consumer's file, *except* credit scores, which are risk scores or predictors assigned by the credit bureau that evaluate consumer credit habits.

2. In addition, consumers now have the right to see: (1) all medical data which may be contained in their credit files; (2) all entries who requested information from their credit report for employment purposes during the past-year period; (3) all entries who requested information from their credit reports for any purposes during the preceding one-year period and (4) the dates, amounts and payees of any checks which resulted in an adverse characterization of the consumer. Furthermore, The Reform Act mandates that with each disclosure, credit bureaus must now provide consumers with a "summary of rights" which outlines all rights afforded to consumers with respect to their credit reports.

### D. Accuracy Of Information Contained On Credit Reports

1. One of the most common problems faced by consumers with respect to the information contained in their credit reports is the accuracy of that information. Under the FCRA, if a consumer disputed an entry on his or her credit report, the credit bureau was required to "investigate" the accuracy of that information within a "reasonable" period of time. In reality, all that credit bureau had to do was contact the creditor, at its leisure, and verify if the information was valid. If the creditor said the information it reported was valid, then the entry remained on the credit report. There was no requirement that the consumer be notified of the results of the reinvestigation. If the consumer was still not satisfied, he or she could submit a 100 word statement setting forth the nature of his or her dispute with the reported entry.

2. Now, under The Reform Act, credit bureaus are subject to stricter standards when investigating disputed credit report information. The Reform Act provides that

when a consumer notifies the agency directly of a dispute, the agency shall reinvestigate the completeness or accuracy of the disputed information *free of charge*. The credit bureau is then to record the status of the disputed information or delete the information if it cannot be verified. All of this is to be accomplished within **30 days** after the credit bureau first receives notice of the dispute from the consumer.

3. Within 5 days of learning of the disputed information, the credit bureau must notify the source of the disputed information and provide it with “all relevant information regarding the dispute that the agency has received from the consumer.” After it has completed its reinvestigating, the credit bureau must provide the consumer with a written notice of the results of the reinvestigation and a copy of the revised credit report. If the bureau is nationwide, it must set up a system so that the results of the reinvestigation go to all nationwide credit bureaus.

4. One important exception, however, should be mentioned with respect to the reinvestigation of disputed information. Under The Reform Act, if a credit bureau determines that a dispute by a consumer is frivolous or irrelevant, or if the consumer fails to provide sufficient information to reinvestigate the disputed credit report entry, then the credit reporting agency may terminate its reinvestigation. Within 5 days of making this determination, the credit bureau must notify the consumer of such determination, by mail or other means authorized by the consumer.

#### E. Reinsertion Of Deleted Information

1. Another problem commonly experienced by consumers is the reinsertion of inaccurate incomplete, unverified, or otherwise, deleted information back into their credit reports. This has frustrated many consumers who have attempted to have the inaccurate information permanently removed from their files.

2. Under The Reform Act, if deleted information is to be reinserted, the creditor or entity which furnishes the information must now *certify* to the credit bureau that the information is complete and accurate. Then, if the information is to be reinserted, the credit reporting agency must notify the consumer, in writing, within **5 business days**: (1) that the disputed information has been reinserted; (2) of the name, address and phone number of the furnisher of this information if reasonably available; and (3) that the consumer has the right to add a statement to the file about the disputed information.

#### F. Obsolete Information

1. Historically, consumers have also had problems enforcing the provisions of the FCRA which govern the use of obsolete information. Obsolete information is credit information that is over seven years. Under the FCRA, credit bureaus were limited to reporting most credit information for no more than seven years. There were, however, exceptions to the general seven year rule, which allowed reporting of certain types of credit information for employment purposes where the salary involved was over a particular amount. In addition, there was also a discrepancy as to when the seven year

period began to run. Was it from the date of the reported delinquency or from the date when the collection activity started?

2. The Reform Act, however, resolved the above dilemma. First, it raised the threshold amounts for the exceptions to the seven year rule and now the following information can be reported for over seven years: (1) a credit transaction involving a principal amount of over \$150,000.00 or more; and (2) the underwriting of life insurance involving a face amount of \$150,000.00 or more. Also, a consumer credit report can now be used in connection with the employment of any individual at an annual salary which equals or which may reasonably be excepted to equal \$75,000.00.

3. Second, The Reform Act clarifies when the seven year period begins to run. Under the new rule, the seven year period for any delinquent account that is placed in collection commences upon 180 days from the delinquency itself. What this actually amounts to is a seven and a half year period for reporting the information until it is considered obsolete.

#### G. Rules For Creditors And Others Who Provide Information To Credit Bureaus

1. One of the most sweeping changes The Reform Act is the inclusion, for the first time, of rules applicable to businesses and other entities who report information to consumer reporting agencies. Under the FCRA, there was no requirement under the law concerning the validity of the information being reported, and this, creditors had little incentive to ensure the information they submitted to credit bureaus was accurate. Now standards have been developed which all creditors, landlords, insurance agencies, etc. must adhere to when reporting information to credit reporting agencies:

a. The Reform Act prohibits furnishers of information from providing information to credit bureaus that they know is inaccurate, either from their own records or based on information provided by a consumer. Furnishers such as credit agencies if it knows or *consciously avoids knowing* that the information is inaccurate. However, if the furnisher clearly and conspicuously specifies an address for consumers to use to notify the furnisher of an error in the credit report, then they are not subject to this requirement.

b. A furnisher who clearly and conspicuously specifies an address for consumers to use to notify the furnisher that the information is inaccurate, may *not* report specific information claimed by a consumer to be inaccurate *if it is in fact, inaccurate*. The consumer must use the particular address specified by the furnisher. It should be noted that this obligation does not extend to information which the consumer has not challenged.

c. If it is determined that information provided to the credit bureau is inaccurate or incomplete, the furnisher of that information must promptly provide correct information to the credit reporting agency and not earlier uncorrected version again.

d. If the completeness or accuracy of the information is disputed by the consumer, the furnisher may not report the disputed information to a reporting agency without also noting the dispute.

e. If a consumer voluntarily closed an account with the creditor, when providing the information to a credit bureau, the creditor must specify that the consumer voluntarily closed the account.

f. When the consumers notify credit bureaus that they dispute an entry on their credit report, the creditor now has an obligation to: (a) conduct a timely investigation of the disputed information after it receives notice of the dispute; (b) review all relevant information provided by the agency; and (c) report inaccurate or incomplete, the creditor must report the results to all other reporting agencies to which it had reported the original information.

2. Based on the above, The Reform Act clearly imposes new obligations on those who provide information to credit bureaus. Hopefully, the new standards will deter creditors from reporting information before they have verified whether or not the information is valid.

#### H. What You Can Do To Prevent Credit Report Problems

1. Instead of waiting until you are denied credit due to adverse entry on your credit report, there are several things you can do to make sure you are not harmed by an inaccurate credit report. First, deal with the issue before it gets submitted to a credit bureau. If you have a dispute with the creditor, send a letter (preferably by certified mail) outlining your dispute with the creditor. Also, keep a copy of that letter for your records. If you later learn that the creditor has submitted that information to a credit bureau, you can dispute that entry with the credit bureau and you have proof that you tried to resolve the matter before it was reported.

2. Second, it is always a good idea to check your credit report before you buy a home or apply for an important job. You may be surprised to find out that your credit report contains information from family members, ex-spouses, or others with individuals with similar names, when that information *may not* have anything to do with you. For example, if you see a credit card account or car loan entry that does not apply to you (that you did not take out yourself or co-sign on another's behalf), then you want that entry taken off of your credit report.

3. Third, always dispute information as soon as possible. Don't wait until you are denied credit or employment. If you have a dispute, deal with it as soon as possible. It is easier to investigate a matter that occurred in the last couple of months rather than in the last couple of years. (See sample dispute letter).

4. Finally, make sure that obsolete information is deleted from your credit report. If you filed for bankruptcy fifteen years ago or defaulted on a \$10,000.00 loan nine years

ago, make sure that credit reporting agencies are no longer reporting those facts. With the volume of information that the report, credit bureaus may not be up to speed in deleting obsolete information.

\*Credit reports can have a tremendous impact on your life and should not be taken lightly. If you have further questions or need additional information, do not hesitate to contact an attorney who practices in the area of consumer law or a legal assistance attorney with your local Office of the Staff Judge Advocate.

## **SAMPLE CREDIT REPORT DISPUTE LETTER**

Specialist John Doe  
111 Hood Road  
Fort Hood, Texas 76544

Date

Complaint Department  
Name of Credit Reporting Agency  
Street Address  
City, State, Zip Code

Dear Sir or Madam:

I am writing to dispute the following information in my file. The item I am disputing is also circled in the enclosed copy of my credit report. Specifically, I am disputing the entry from Country Bank Visa, Account # 4128 1190 4561 3198, which states that my account is delinquent in the amount of \$500.00. This item is inaccurate because I paid off this account last month. I am requesting that the item be deleted to correct the information. Enclosed are copies of my canceled checks showing that the money was paid to Country Bank Visa. You may wish to contact Country Bank Visa to verify this fact.

Please reinvestigate this matter and delete the disputed item as soon as possible. If you have any further questions, please do not hesitate to contact me at the above address.

Sincerely,

John Doe

Enclosures

The following are the addresses and phone numbers of three major credit reporting agencies:

Equifax Credit Information Services  
P.O. Box 740241  
Atlanta, GA 30374-0241

Experian  
P.O. Box 919  
Allen, TX 75013

Trans Union Corporation

You may notify all three

Marketing Opt-Out  
P.O. Box 97328  
Jackson, MS 39288

agencies by calling  
1-888-567-8688

FOR ADDITIONAL INFORMATION CONTACT THE LEGAL ASSISTANCE OFFICES  
AT FORT HOOD: III Corps, Building 1001, Room C224, 287-7901/3199; 1st Cavalry  
Division, Building 28000, Room 1155, 287-6060; 4th Infantry Division (Mech), Building  
410, Room 175, 287-1850.